

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MARVELL WILLINGHAM,)
)
)
Plaintiff,)
)
v.) **No. 4:23-CV-427 PLC**
)
WINGSTAR TRANSPORTATION, LLC)
and)
MIKHEILI KOBIAHVILI,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff Marvell Willingham's request for additional time to serve Defendant Mikheili Kobiahvili [ECF No. 21] in response to the Court's July 7, 2023 Order to Show Cause. [ECF No. 20]

On April 4, 2023, Plaintiff filed his complaint against Defendants Wingstar Transportation LLC and Mikheili Kobiahvili seeking recovery for personal injuries he sustained during a motor vehicle accident. [ECF No. 1] Plaintiff perfected service on Defendant Wingstar Transportation, LLC on April 19, 2023. [ECF No. 12] On July 7, 2023, the Court issued a Show Cause Order directing Plaintiff to show cause why the action should not be dismissed without prejudice against Defendant Kobiahvili for failing to obtain service within 90 days of initiating the action. [ECF No. 20]

In his response to the Show Cause Order, Plaintiff stated he attempted service on Defendant Kobiahvili in April 2023 but was unable to obtain service "due to an incomplete address listed on the police report." [ECF No. 21] Plaintiff asserts he "sent Defendant Wingstar Transportation, LLC discovery requesting its employee Defendant Mikheili Kobiahvili's full address in order to

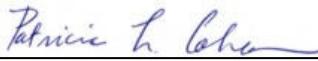
obtain service.” [ECF No. 21] Plaintiff requests an extension of time to obtain service on Defendant Kobiahvili. [ECF No. 21]

When a defendant is not served with process and complaint within ninety days of the filing of the lawsuit, Federal Rule of Civil Procedure 4(m) requires the Court to either dismiss the lawsuit without prejudice or, if the plaintiff shows good cause for the failure to timely serve the defendant, extend the time for service of process. Fed. R. Civ. P. 4(m). Good cause requires a showing of “at least ‘excusable neglect’—good faith and some reasonable basis for noncompliance with the rules.” Adams v. AlliedSignal General Aviation Avionics, 74 F.3d 882, 887 (8th Cir. 1996).

As Plaintiff’s delay in effecting service is not willful and an extension will not prejudice the Defendants, the Court will exercise its discretion to extend the time for service.

After careful consideration,

IT IS HEREBY ORDERED that the time for service of process and complaint on Defendant Mikheili Kobiahvili is extended to August 31, 2023.



PATRICIA L. COHEN
UNITED STATES MAGISTRATE JUDGE

Dated this 1st day of August, 2023.